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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,543	09/12/2003	David C. Fischer		6417
7590		10/19/2005		
Marvin N. Gordon 277 West End Avenue New York, NY 10023			EXAMINER COURSON, TANIA C	
			ART UNIT 2859	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

10142005

DATE MAILED:

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Commissioner for Patents

1. The amendment filed July 22, 2005, is informal/non-responsive because amended claims 1-5, 8-13 and 16-17 are directed to an invention that is independent or distinct from the invention originally elected, since originally elected claims 1-5, 8-13 and 16-17 were directed to the species shown in Group 1 (Fig. 1), while amended claims 1-5, 8-13 and 16-17 are directed to the species shown in Group II (Fig. 2), the non-elected species.

Since applicant received an action on the merits for the originally claimed invention, this invention could have been constructively elected by original presentation for prosecution on the merits. However, amended claims 1-5, 8-13 and 16-17 are no longer directed to the originally elected invention. Therefore, it is not possible to constructively elect by original presentation the originally claimed invention, and accordingly, the amendment filed on July 22, 2005, has been considered to be informal/non-responsive.

2. The timely submission under 37 CFR 1.129(a) filed on July 22, 2005 is not fully responsive to the prior Office action, see paragraph above. Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Diego Gutierrez
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